

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID RUELAS-CARBAJAL,

Defendant.

8:16CR360**MEMORANDUM
AND ORDER**

This matter is before the Court on defendant David Ruelas-Carbajal's ("Ruelas-Carbajal") pro se Motion for Compassionate Release (Filing No. 108). Ruelas-Carbajal is currently serving 151 months imprisonment after a jury found him guilty of distributing methamphetamine and conspiring to distribute and possess with intent to distribute methamphetamine. *See* 21 U.S.C. §§ 841(a)(1), (b)(1), and 846. According to the Federal Bureau of Prisons ("BOP"), his expected release date is October 17, 2027.

Title 18, section 3582(c)(1)(A)(i) permits Ruelas-Carbajal to move the Court to "reduce [his] term of imprisonment" for "extraordinary and compelling reasons" *after* he "has fully exhausted all administrative rights to appeal a failure of the [BOP] to bring a motion on [his] behalf or the lapse of 30 days from the receipt of such a request by the warden of [his] facility, whichever is earlier." *Id.*; *see also United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020) (denying a defendant's motion under § 3582(c)(1)(A) because he did not give the BOP thirty days to respond to his request for compassionate release).

It is not clear from Ruelas-Carbajal's motion that he has met either of § 3582(c)(1)(A)'s statutory requirements. The initial request he sent to prison staff indicates he simply asked for a form to file for compassionate release and was instructed to "follow 5050.50 BOP program statement." His second request to staff—just six days later—is directed to "Authorize Judge" and includes nothing to suggest he has met either statutory requirement. Ruelas-Carbajal's failure to show he has satisfied

§ 3582(c)(1)(A)(i) “presents a glaring roadblock foreclosing compassionate release at this point.” *Raia*, 954 F.3d at 597.


But even if Ruelas-Carbajal could show he has met one of the statutory requirements for judicial review, the Court would still deny his motion. As grounds for relief, Ruelas-Carbajal states his “daughter is in bad company” and is not being allowed to study or continue in school. He further states his “daughter is in danger” around his wife’s friends, who smoke weed and do drugs.

Although the Court understands Ruelas-Carbajal’s concerns for his daughter’s well-being, those concerns are insufficient to warrant a sentence reduction at this time, given the totality of the circumstances in this case. For the foregoing reasons, Ruelas-Carbajal’s Motion for Compassionate Release (Filing No. 108) is denied without prejudice.

IT IS SO ORDERED.

Dated this 5th day of July 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge